

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

Jose Humberto Partida Garduno,

Plaintiff,              Case No. 18-cv-12530

v.

Judith E. Levy  
United States District Judge

ICOMTAB.com, LLC, d/b/a  
Presidency Solutions, a Michigan  
limited liability company Rajat  
Mohan, an individual, and Jessica  
Rodrigues Sanchez, an individual,  
jointly and severally,

Mag. Judge R. Steven Whalen

Defendants.

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**OPINION AND ORDER DISMISSING CASE WITH PREJUDICE**

Plaintiff originally filed this case on August 14, 2018. (Dkt. 1.)

Summons were issued for all defendants on August 15, 2018. (Dkts. 3—

5.) Plaintiff never served defendants.

On December 10, 2018, the Court ordered plaintiff to show cause in writing by Friday, December 21, 2018 why this case should not be dismissed for plaintiff's failure to prosecute, pursuant to Eastern District of Michigan Local Rule 41.2. (Dkt. 6.) Plaintiff did not file any document

by December 21, 2018 and, even as of today, have not filed anything in response to the Court's order. Thus, plaintiff did not comply with the Court's order and have not shown cause why this case should not be dismissed with prejudice for failure to prosecute.

There are four factors that a district court considers in dismissing a case for failure to prosecute.

(1) whether the party's failure is due to willfulness, bad faith, or fault; (2) whether the adversary was prejudiced by the dismissed party's conduct; (3) whether the dismissed party was warned that failure to cooperate could lead to dismissal; and (4) whether less drastic sanctions were imposed or considered before dismissal was ordered.

*Wu v. T.W. Wang, Inc.*, 420 F.3d 641, 643 (6th Cir. 2005). Dismissal for failure to prosecute is available to the district court “as a tool to effect management of its docket and avoidance of unnecessary burdens on the tax-supported courts [and] opposing parties.” *Knoll v. Am. Tel. & Tel. Co.*, 176 F.3d 359, 363 (6th Cir. 1999). “A district court must be given substantial discretion in serving these tasks.” *Id.*

Accordingly, for the reasons set forth above, the case is dismissed

with prejudice for failure to prosecute.

IT IS SO ORDERED.

Dated: January 2, 2019  
Ann Arbor, Michigan

s/Judith E. Levy  
JUDITH E. LEVY  
United States District Judge

**CERTIFICATE OF SERVICE**

The undersigned certifies that the foregoing document was served upon counsel of record and any unrepresented parties via the Court's ECF System to their respective email or First Class U.S. mail addresses disclosed on the Notice of Electronic Filing on January 2, 2019.

s/Shawna Burns  
SHAWNA BURNS  
Case Manager